

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

**K. Roger Spalding,**

**Plaintiff,**

**v.**

**State of South Carolina Department of  
Revenue,**

**Defendants.**

**C/A No. 3:07-1624-CMC-BM**

**ORDER**

This action is brought by a *pro se* Plaintiff who is claiming Defendant State of South Carolina Department of Revenue has committed the state law torts of defamation, libel, slander, and defamacast,<sup>1</sup> and claims he has diversity jurisdiction to proceed in this court. In accordance with this court's order of reference and 28 U.S.C. § 636(b), this matter was referred to United States Magistrate Judge Bristow Marchant for a Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005)

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<sup>1</sup>“Defamacast” is recognized in Georgia as defamation by radio or television. *Friendship Empowerment and Econ. Dev. v. WALB-TV*, 2006 WL 1285037 (M.D. Ga. 2006). Other courts recognize that libel and slander can be committed by publishing information on a web site. *See Wiest v. E-Fense, Inc.*, 356 F.Supp. 2d 607 (E.D. Va. 2005).

(stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

Based on his review of the record, the Magistrate Judge has recommended that the Complaint be dismissed without prejudice and without issuance and service of process. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and Recommendation. No objections have been filed and the time for doing so has expired.

After reviewing the Complaint and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference.

**IT IS HEREBY ORDERED** that this case is *dismissed without prejudice and without service of process*.

**IT IS SO ORDERED.**

s/ Cameron McGowan Currie  
CAMERON MCGOWAN CURRIE  
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina  
July 20, 2007

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